

1882-065 Chancery Causes: Drury E. Fleenor to do. Larkin & Hamilton] to
Lee Co.

Larkin, Hamilton, Harper & Spencer], Harper, Spencer

CA-Debt

T-Property

To the Worshipful County Court of Lee
County Virginia in Chancery Sitting:

The Bill of Complaint of Drury E. Fleenor
of Lee County Virginia and John H. Fleenor of Said
County respectfully represents to the Court that
on the 24th day of January 1870 a firm under the
name and style of Larkin and Hamilton obtained
two judgments against Your Orator Drury E. Fleenor
before Andrew Milbourn a justice of the peace in
and for Lee County ~~and~~ of which was for \$27.87 with
interest from the 2nd day of February 1856 till paid
+ \$1.10 costs and the other was for \$20.77 with in-
terest from the 4th day of December 1856 till paid
and \$1.10 costs and at the same time of obtain-
ing the above judgments another firm under the
name and style of Harper and Spencer obtained
another judgment against Your orator Drury E.
Fleenor for \$6.00. with interest from the 20th day
of May 1855 till paid + \$1.10 costs, And on these
three judgments executions have been issued and
are now in the hands of James Miles a Constable
of Lee County who as it appears by his endorsement
on each one and all the executions has levied them
all on "one waggon and one Yoke of work Cattle
red and white speckled and one pale red Cow-
on the 1st day of April 1870" and which property
he the Said Constable has advertised for sale.

Your Orators allege that the Said plaintiffs in
the above mentioned judgments ought to be en-
joined from proceedings on their said judgments
and executions to sell the property levied on as
aforesaid because the property levied on is exempt
from the executions aforesaid under the Constitution
of Virginia which is now in force

And Your Orators ^{husbands & parents and} being, householders and heads of families they claim to be entitled to hold the said property exempt from levy seizure garnisheeing or sale under the said executions as they the said executions were issued on debts claimed to have been contracted heretofore and are neither of them the debts excepted under the Constitution of Virginia, and your orators claim said property to be exempt from levy under the said Constitution. And your orators further state that neither one of them are worth exceeding \$2000.00 in addition to what is now allowed exempt from distress or levy under existing laws. Your Orators alleged that they claim the property levied on to be exempt from the executions as aforesaid and are informed and believe that the injunction asked for should be granted on this ground alone but as an additional ground for injunction they allege that they are informed and believe that the General Assembly of Virginia are in pursuance of a provision of the Constitution of Virginia about to pass a law prescribing in what manner and on what conditions householders and heads of families may set apart and hold the homestead and personal property claimed by them as exempt under the Constitution of Virginia and they ask that the plaintiffs in said judgments be enjoined from further proceedings on the same until the act of the General Assembly is passed in pursuance of the Constitution. So as to give your orators time to claim the benefit of the law and the Constitution. Your Orators further alleged that the judgments and executions sought to be enjoined by this bill are against your Orator the said Drury E. Fleenor alone and not against your Orator John H. Fleenor he is in no wise bound to pay the same

3rd section of Chapter 19 of the Code of Va. and ask the law to be enforced in that ground

but they allege that part of the property levied on and advertised for sale is not the property of your Orator Drury E. Fleenor but is the property of your Orator John H. Fleenor to wit the yoke of work cattle and hence is a further ground for granting this injunction your orators ~~they~~ allege this fact and ask ^{that} the plaintiffs in said judgments to be enjoined from further proceedings in the premises until the validity of the claims can be settled and as to the liability of the said property to levy to satisfy executions on said judgments. And as a further ground of injunction your Orator Drury E. Fleenor alleges that he paid to John M. Hamilton \$20.00 which he intended as a payment to him but which does not appear to be credited on either of the notes of Larkin and Hamilton on which two of the said judgments were obtained the said John M. Hamilton being one of the firm of Larkin and Hamilton and the said \$20.00 was paid about the year 18 But the said Hamilton lives in Washington County and your Orator could not get him conveniently as a witness to account for the \$20.00 he paid him and the time is now past for an appeal to Court or a new trial. Your Orators allege that the firm of Larkin and Hamilton is composed of Larkin and John M. Hamilton and the firm of Harper and Spencer is composed of Harper and Spencer. Your Orators allege that they both become plaintiffs in this suit because part of the property levied on and advertised for sale is the property of John Fleenor to wit the yoke of oxen.

And your Orators have thought proper to combine the Said Firms of Larkin & Hamilton and Harper & Spencer as Codefendants to this bill because their levies are on the identical same property and are all seeking to make their judgments out of the same and your orators further state that two of the said executions are out of date and have never been removed your Orators being without an adequate remedy at law and best releivable in a Court of equity their prayer therefore is that Larkin and John M. Hamilton late merchants and partners in trade under the firm name and style of Larkin & Hamilton and that Harper and Spencer late merchants and partners in trade under the firm name and style of Harper & Spencer be all made the parties defendants to this bill and that they be required to answer the same upon their oaths and that they all be summoned for that purpose and that until the matters herein set forth be fully heard and determined an injunction be granted restraining all the said parties claiming the benefits of said judgments ~~until~~ from further proceedings with the same and especially prohibiting them from selling the property levied on by virtue of said executions and such other and general relief be extended to your Orators as may be consistent with equity and justice and best suited to their case and finally that the said judgments be perpetually enjoined May the Commonwealths writ of Sp. issue directed &c.

David Miller
for Complainants

Virginia Lee County to wit;

This Day John H. Fleenor personally appeared before me the undersigned a Justice of the peace in and for Lee County Virginia and made oath that the statements made in the foregoing bill are true so far as his knowledge extends and so far as his knowledge is derived from others he believes them to be true.

Given under my hand this the 18th day of April 1870

James R. Little J.P.

Jury E. & John Fleener

vs. Bill in Chy.

Larkin & Hamilton
& Harper & Spencer

J.B. W. Lake Co 1. 35

Calhoun County Ct 3. 06

Or. Clk 8. 28 July 1881

1870 April Term. Injunction
granted. = Bond in the
Sum of \$120.00 required &
also Release of Errors at Law.
to be filed.

1870. May. Cont'd for Inj Bond &
release of errors as required by
Court.

" June. Cont'd for same.

" July. Cont'd for same.

" Aug. & Sept. " " "

" Oct. & Nov. cont'd for same.

" Dec. Cont'd for Inj. Bond &.

1871 Jan'y. Cont'd " " " "

" Feb. March. Cont'd for Bond

" April & May. " " "

" June & July " " "

" Aug & Sept. " " "

" Oct. & Nov. " " "

" Dec. Continued " "

1872 January, Feb. & March " " "

" April, May & June " " "

" July, Aug. & Sept. " " "

" Oct. Nov. & Dec. " " "

1873 Jan'y. Feb. & March " " "

" April, May & June " " "

" July & Aug. " " "

1873 August transferred to Cir. Ct.

" Sept. & Oct. continued

" Nov. & Dec. Dec. Cont'd.

1874 Cont'd this year.

1875 Cont'd this year.

1876 Cont'd this year.

1877. Cont'd " year.

1878. Cont'd this year.

1879. Cont'd this year.

1880. Cont'd this year.

1881. July Cont'd to this date.

July Aug. Sept. Oct. Nov. & Dec.

Continued

1882. Jan'y. Feb. Mar. Apr.

Dismissed by plff.

Ch. Rec. Ch. 63